

Document #4783

7/17/86

MEMORANDUM

July 17, 1986

TO: Boston Redevelopment Authority and
Stephen Coyle, Director

FROM: Susan Allen, Assistant Director for
Development and Urban Design
Linda Bourque, Director of Zoning
Pam Wessling, Project Coordinator

SUBJECT: Parkside West Zoning Recommendation
and Authorization to Enter into a
Housing and Employment Agreement

Tremont One Associates proposes to construct Parkside West, a 94 unit condominium housing project at 170 Tremont Street which was one of seven projects presented in the BRA's Downtown Projects II. Sited on a 5,695 square foot parcel across from Boston Common, the project will consist of seventeen occupied stories to a height of 155 feet plus a mechanical penthouse. Three to four levels of subsurface parking will accomodate 75-90 parking spaces available to the residents. Designed by Cannon/Yan Associates and Piatt Associates, the project is 96,551 gross square feet as defined by the Boston Zoning Code, of which approximately 94,550 square feet is dedicated to housing, and the remainder to ground floor retail space. The predominant facade material is brick.

Total development cost is estimated to be approximately \$22,462,000. The developer anticipates initiating construction in the fourth quarter of 1986 and completing it in the first quarter of 1988.

The project would provide a number of public benefits. The developer proposes to improve the landscaping on adjacent public sidewalks with new pavement, trees, and lighting. In addition, the developer will make substantial pedestrian improvements to the section of Mason Street which runs perpendicular to Tremont Street, if the Public Improvement Commission agrees to discontinue that section of the street and restrict it to emergency traffic access. Improvements there would include a pedestrian concourse featuring benches, trees and other landscaping, new curbing, and brick and granite paving in addition to limited street commerce, such as a cafe, subject to further BRA review and approval.

It is estimated that construction of the project will generate approximately 200 jobs. Upon completion, approximately 15 permanent employees will be located on the site. The developer has agreed to formulate an Residents Construction Employment Plan and an Employment Opportunity Plan in keeping with Authority policies.

The developer also proposes to enter into an agreement to increase the supply of affordable housing in Boston. Under the terms of attached agreement, the developer would contribute a total of \$525,000, of which \$225,000 would be dedicated to help provide housing for homeless people in Boston and \$300,000 would be used by the developer to create affordable neighborhood housing.

The developer has submitted schematic plans, financial information, and an environmental assessment, which have been reviewed by BRA staff and presented to abutters, neighborhood groups, and other interested parties. BRA staff and the City's Traffic and Parking Department are also reviewing a transportation access plan submitted by the developer. Final project approval is contingent upon the developer's commitment to an access plan acceptable to the Director.

The project is located in a B-10 district with a 155-foot height restriction and requires variances from the Boston Zoning Code for the following:

Open Space - The Code requires 50 feet of usable open space per dwelling unit. The project does not include open space and its provision is unnecessary given the proximity of Boston Common and the dense urban nature of the area.

Side Yard - The Code requires a side yard for a corner lot; no side yard is proposed.

Parapet Setbacks - The Code requires parapet setbacks for side and rear portions; no such setbacks are proposed.

Floor Area Ratio Limitation - The Code specifies an FAR 10. The developer proposes using the entire envelope within the 155 foot height limitation which yields an FAR of 16.95. If the developer receives approval of the Public Improvement Commission to acquire a 2,148 square foot portion of Mason Street, the FAR of the project will be 12.29.

After BRA staff review and discussions with community groups, we recommend the following:

VOTED: That the Authority hereby authorizes the Director to execute, in the name and on behalf of the Authority, a Housing and Employment Agreement with the developer of Parkside West substantially in the form attached hereto, with such changes as the Director of the Authority deems appropriate and in the best interest of the Authority.

VOTED: That in reference to petition Z-8805, brought by Tremont Place Realty Trust, for four variances consistent with schematic plans submitted to the Authority for Parkside West, a 17-story, 94-unit residential and retail structure at 170 Tremont Street, Boston, the Boston Redevelopment Authority recommends approval, provided that the final design plans and a Transportation Access Plan are approved by the Director of the Authority.



Developer
TREMONT ONE ASSOCIATES

Architect
CANNON
Charles Cannon Inc.

20 University Road Cambridge MA 02138

148 State Street Boston MA 02109

Design Consultant
CANNON-YAN

Associate Architect
PIATT ASSOCIATES

Title
Neighborhood Plan

Number
51



Scale 1" = 50' Date May, 1986

Boston

DATE: _____

PURPOSE: Building a new building-17 stories.NAME: Tremont One Assoc.ADDRESS: 20 University Rd,
Cambridge, . MassRE: APPLICATION NO. 4635LOCATION: 170 Tremont St. Ward 3

B-10
[H-4 as per 513-4]

YOUR APPLICATION CITED ABOVE IS HEREBY REFUSED AS SAME WOULD BE IN VIOLATION OF THE BOSTON ZONING CODE TO WIT: CHAPTER 665, ACTS OF 1956 AS AMENDED: ARTICLES:

- () Section 8-7 Use Item # _____
- () section 8-7 Use Item # _____
- () Section 8-7 Use Item # _____
- () Section 7-4 IN VARIANCE WITH A FORMER DECISION OF THE BOARD OF APPEAL.
- () Section 9-1 EXTENSION OF STRUCTURAL CHANGE TO A NON-CONFORMING USE.
- () Section 9-2 CHANGE IN A NON-CONFORMING USE.
- () Section 10-1 OFF STREET PARKING IS NOT ALLOWED WITHIN THE FRONT NOR SIDE YARD.
- () Section 14-1 LOT AREA IS INSUFFICIENT.
- () Section 14-2 LOT AREA FOR ADDITIONAL DWELLING UNITS IS INSUFFICIENT/NOT PROVIDED.
- () Section 14-3 LOT WIDTH IS INSUFFICIENT.
- () Section 14-4 LOT FRONTAGE IS INSUFFICIENT.
- (X) Section 15-1 FLOOR AREA IS EXCESSIVE.
- (X) Section 16-1 HEIGHT OF BUILDING IS EXCESSIVE.
- () Section 16-8 RESTRICTED ROOF STRUCTURE DISTRICT.
- (X) Section 17-1 USABLE OPEN SPACE IS INSUFFICIENT.
- (X) Section 18-1 FRONT YARD IS INSUFFICIENT.
- () Section 18-3 TRAFFIC VISIBILITY ACROSS CORNER IS INSUFFICIENT.
- () Section 18-4 FRONT YARD (OTHER STREET) (S) IS INSUFFICIENT.
- (X) Section 19-6 SIDE YARD IS INSUFFICIENT. 19-6
- () Section 20-1 REAR YARD IS INSUFFICIENT.
- (X) Section 21-1 SET BACK OF PARAPET IS INSUFFICIENT.
- () Section 23-1 OFF STREET PARKING FACILITIES ARE INSUFFICIENT.
- () Section 24-1 OFF STREET LOADING FACILITIES ARE INSUFFICIENT.
- () Article 27 IPOD--INTERIM PLANNING OVERLAY DISTRICT.

REFUSAL OF A PERMIT MAY BE APPEALED TO THE BOARD OF APPEAL WITHIN FORTY-FIVE (45) DAYS, PURSU-
TO CHAPTER 665 OF THE ACTS OF 1956, AS AMENDED THROUGH APRIL 1963.

VERY TRULY YOURS,

VERY TRULY YOURS,

Ellen Pinkos

FOR THE COMMISSIONER,
Ellen Pinkos,
Acting Zoning Administrator
725-4722FOR THE COMMISSIONER,
Micheal Dello Iacono,
Asst. Zoning Administrator
725-3459

William Sommers, Commissioner/INSPECTIONAL SERVICES DEPARTMENT/807 City Hall/725-4700/Boston, MA 02



**APPLICANT MUST USE TYPEWRITER IN FILLING IN
THIS APPLICATION**

CITY OF BOSTON

Certified Street Numt

Street Numbering Inspec

APPLICATION TO THE INSPECTIONAL SERVICES COMMISSIONER FOR PERMIT:—

To erect building or structure, under provisions of Chapter 802 of the Acts of 1972 as Amended.

Certified street and number 170 (a/k/a 168,169) Tremont St. Within Fire Zone. Ward

Name of Owner Tremont One Associates Address 20 University Rd, Cambridge, MA 02138

Name of Architect Cannon/Yan Address 148 State St, Boston, MA 02109

Classification of building or structure Flat Associates Post-Office West Street, Boston, MA 02111

Dimensions of building or structure — Front 78'-10" Right side 71'-5 5/8" Left side 73'-10" Rear 79'-03/4"

Height from sidewalk or mean grade to highest point of roof 78'-10" (Measured)

Dimensions Lot — Front 78' 5-5/8" Right side 71' 5-5/8" Left side 73' Rear 78'-10"

Main stairs 2 Back stairs None Fire escapes None Con. balconies None Any other None

Material of — Foundation Concrete Floors Concrete Walls Gypsum wallboard Thickness of 2 x 5/8"

Roof construction Concrete Soil Till Masonry 8"

Floors	1	2	3	4	Basement	Others
Occupancy						Floor 1
Number of persons accommodated	Retail & Residential lobby	Residential				Garage
Designed live load		Dwellings	40 PSF			50 PSF
	100 PSF	Corridors	80 PSF			

Number of employees in building 3 Proposed occupancy Residential & Retail

Cubic Volume 1,034,000 X 5 per cu. ft. Estimated cost 576-7615

GENERAL DESCRIPTION OF THE PROPOSED WORK AND ITS LOCATION

94-unit residential building; 17 stories; reinforced concrete, flat-slabs, columns and beams; masonry exterior walls; located at corner of Tremont Street and Mason Street.

Date 4/17/86

The facts set forth above in this application and accompanying plans are a true statement made under penalty of perjury.

Richard A. G. [Signature] (Signature of Owner or Authorized Agent) C/O HALL, DAVSON + COMPANY (Address) 20 UNIVERSITY ROAD CAMBRIDGE MA 02138 576-7615

Richard McNamara (Signature of Licensed Builder) John Moriarty & Associates (Name of Contractor)

Address 8 Winchester Place Winchester, Ma Address 8 Winchester Place

Lic. No. B.00183 Class ABC

My license expires 11-5-86 Winchester, Mass 01890

729-3900

ZONING COMPUTATION FORM COVERING ALL NEW BUILDINGS, CHANGES OF OCCUPANCY, ALTERATIONS, ETC.

Prepared by: Cannon
Cannon/Yan
Piatt Assoc. 02109

148 State St
Boston, MA

(6) Use Item: ARTICLE 8 Section 8-7, use nos. 7, 34, 36A, 37, 39, 43, 44,

(2) DIMENSIONAL REQUIREMENTS: ARTICLE 13-1

ARTICLE AND SECTION	14-1	14-2	14-1 PLUS 14-2	14-3 14-4	ART 15	ART 16	ART 17	ART 18	ART 19	ART 20	ART 21	ART 22
	MIN. LOT SIZE	MIN. LOT AREA FOR DWELLING UNIT	TOTAL LOT SIZE	MIN. LOT WIDTH	MAX. FLOOR AREA RATIO	MAX. HEIGHT OF BUILD.	USABLE OPEN SPACE PER DWELL. UNIT	MIN. FRONT YARD	MIN. SIDE YARD	MIN. REAR YARD	MIN. SETBACK OF PARAPET	MAX. USE OF REAR YARD
ZONE	None	None	None	None	10.0	155'	50 SF	None	None	None	29.23	--
REQU'D BY CODE	None	None	None	None	10.0	155'	50 SF	None	None	None	29.23	--
EXISTING CONDITION	N/A	N/A	N/A	N/A	N/A	None	None	None	None	None	None	--
PROPOSED CONDITION	N/A	N/A	N/A	N/A	16.94	155'	None	None	None	None	None	--

GROSS FLOOR AREA: SECTION 2-1(21) F.A.R. = $\frac{\text{Gross Floor Area}}{\text{Lot Area}}$

Basement	(Parking garage)	0
First Floor		4378
Second Floor		5068.98
Third Floor + Fourth Fl.	$5926.98 \times 2 =$	11,853.96
5th thru 8th Fl.	$5849.98 \times 4 =$	23,399.92
9th thru 17th Fl.	$5753.98 \times 9 =$	51,785.82
Total		96,486.68
	F.A.R. = $\frac{96,486.68}{5695} =$	16.94

(3) OFF-STREET PARKING: ARTICLE 23

Dwelling Units X factor = spaces (for houses, apartments, hotels, etc.) Section 23-6 (a) When the maximum floor area ratio specified in Table B or Section 13-1 for a lot is 8.0 or 10.0, off-street parking facilities are not required for such lot.

(4) OFF-STREET LOADING: ARTICLE 24

(only required for uses other than 1 through 10, 26, 27, 28, 31, 32, 33, 39, 40, 50, 52, 53, 58, 59) therefore no loading bays are required.

Note: All of above data is to be attached to, or incorporated into, the Plot Plan Signed by Certified Land Surveyor or Certified Engineer See " Plan, Boston, MA", dated March 17, 1986, prep: 1 by Harry R. Feldman, Inc. and filed herewith

NOTES

1. Section 18-2 conformity with existing building alignment.
2. Table B, Section 13-1, Note (4) and Section 19-4 side yards in H districts; building abuts on adjacent lot.
3. Section 20-7 rear yards of thru lots considered same as front yard requirements, see Section 18-2 conformity with existing building alignment. Table B, ...adjacent lot. Refer also to sec. 19-6, Corner Lots.
4. Parapet Setbacks Required:

Front	$\frac{155' + 78.83'}{8}$	$29.23 - 50' = \text{None}$
Side	$\frac{155' + 71.47'}{8}$	$28.30 - \frac{30'}{0} = 13.3'$
Rear	$\frac{155' + 79.06'}{8}$	$29.26 - \frac{28}{2} = 15.25'$

5. Bay windows side walls are 90 degrees, which is less than 135 degrees allowed. [Section 2-1 (3)].
6. Conditional use approval required by Appeals Board for use 36A.

(An appeal under the Boston Zoning Code to the Board of Appeal must be in writing on this form and filed in quadruplicate with the Inspectional Services Commissioner of the City of Boston, who shall retain one for his files and transmit one to the Board of Appeal, one to the Boston Redevelopment Authority, and the other to the Zoning Commission.)

APPEAL
under Boston Zoning Code

2895
5/15/86

Boston, Massachusetts,.....May....., 1986..

To the Board of Appeal in the Inspectional Services Department of the City of Boston:

The undersigned, being.....OWNER.....
Here insert words descriptive of interest in lot, such as the owner(s)

of the lot at.....170...(a/k/a..168...169)..Tremont..Street...Ward..3.....
numberstreetdistrict

hereby appeal(s) under St. 1956, c. 665, s. 8, to the Board of Appeal in the Inspectional Services Department

of the City of Boston from the following action taken by the Inspectional Services Commissioner on.....May..12.., 1986
date

(Here copy letter of refusal in full):

This appeal seeks a variance

The specific

Here insert: interpretation of Boston Zoning Code
or conditional use permit
or nonconforming use permit
or sub-standard lot permit
or transition zone permit
or variance

provision of the Boston Zoning Code involved in this appeal is Section 15-1, 17-1, 19-6 and 21-1. More precisely, what is sought by this appeal, and the grounds on which it is claimed that what is sought should be granted, are as follows (*here set forth in detail and with particularity exactly what is sought by this appeal, and the reasons therefor*):

The proposed structure at 170 (a/k/a 168, 169) Tremont Street is expected to provide 94 units of housing in the downtown area. The following variances are necessary to construct the building. Section 15-1 of the Code allows a maximum F.A.R. of 10.0. The plans contemplate an F.A.R. of 16.94. Section 17-1 of the Code requires 50 feet of usable open space per dwelling unit; none is provided. Section 19-6 requires a side yard for a corner lot; none is provided. Section 21-1 requires parapet setbacks for the side and rear portions of the building; no such setbacks are provided.

A variance from these requirements is necessary because of the peculiar dimensions and location of the lot. Even though the lot is a relatively small one, it is surrounded by streets on three sides. In addition, a building abuts the lot line on the fourth side. The small size and location of the lot do not provide sufficient area both to comply with the requirements set out above and to make the project economically feasible. Application of these provisions of the Code would render this project unfeasible and would deprive the appellant of a reasonable use of the land, namely the production of housing in the downtown area.

The granting of the requested variances is necessary for the reasonable use of this lot as newly constructed housing. A structure that complied with the provisions of the Code set out above would be prohibitively expensive to construct. Thus, for reasons of practical difficulty and demonstrable and substantial hardship these variances should be granted. They are the minimum ones necessary to build the project.

There are several factors which mitigate the impact of variances requested. First, the project faces the Boston Common. Thus, the proposed additional F.A.R. would have less impact on the area's density than if it were located elsewhere. The vast open space of the Common also reduces the need for on-site open space. Second, the portions of Mason Street that abut two sides of the lot are very narrow and are not major thoroughfares for vehicles. The streets are heavily used by pedestrians, and this additional open space helps further to alleviate the density of the immediate area. These mitigating factors illustrate that the requested variances will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Given these facts, the requested variances should be granted. Other reasons will be presented at hearing.

Appellant Tremont Place Realty Trust

By SS PRG 5/15/86
Richard Goren, Trustee

Address 20 University Place, Cambridge, MA

Telephone number 576-7615

5.

HOUSING AND EMPLOYMENT AGREEMENT

AGREEMENT by and between TREMONT ONE LIMITED PARTNERSHIP, a Massachusetts limited partnership, (the "Developer") and the BOSTON REDEVELOPMENT AUTHORITY (the "Authority"), a body politic and corporate created pursuant to Chapter 652 of the Acts of 1960, made this _____ day of July, 1986.

WHEREAS, the Developer shall construct Parkside West, a 94-unit condominium housing project with ground level retail and accessory parking uses, at 170 Tremont Street (the "Project").

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained the parties agree as follows:

1. The Authority acknowledges that with respect to the Project the Developer has satisfied the first stage of submissions required by the Authority's Development Review Procedures which relates to Schematic Design Plans and that said Schematic Design Plans for the Project have been approved by the Director as evidenced by the letter attached as Exhibit A. The Project is subject to the Development Review Procedures as attached here as Exhibit B. The Authority further acknowledges that delays in the Development Review Procedures may be critical to the cost of developing the Project and agrees that the Authority shall act in a prompt and timely manner in connection with the approval process of Design Development and Final Working plans.
2. The Authority will cooperate fully with the Developer in efforts a) to obtain the issuance of the variances necessary to complete the Project in accordance with the Authority's vote of _____, 1986, b) its efforts to obtain the approval of the Public Improvement Commission necessary to implement the project as approved by the Authority and c) to obtain other state and municipal approvals and permits which are necessary to complete the Project as approved by the Authority. The Authority does not guarantee the issuance of any such approvals or permits.
3. The Developer shall pay a housing grant in accordance with the following terms:
 - A. First Payment. Upon issuance of a building permit for the Project, the Developer shall pay to the Authority the sum of one hundred and fifty thousand dollars (\$150,000.00) to be held in escrow by the Authority for the benefit of "Friends of the Homeless", or such other non-profit organization established to provide shelter or other services to the homeless in Boston.

B. Second Payment. Within twelve (12) months of issuance of the building permit but no sooner than the closing of the sale of the thirtieth (30th) unit, the Developer shall pay to the Authority the sum of seventy-five thousand dollars (\$75,000.00) to be held in escrow by the Authority for the benefit of "Friends of the Homeless", or such other non-profit organization established to provide shelter or other services to the homeless in Boston.

C. Subsidy. The Developer shall construct low and moderate income rental housing or low and moderate income owner occupied housing ("Subsidized Housing") providing a net subsidy in the amount of three hundred thousand dollars (\$300,000) (the Subsidy). The Developer shall submit a plan for constructing or otherwise providing for Subsidized Housing within 120 days from the date of this Agreement, and such plan shall be subject to approval of the Authority which approval shall not be unreasonably withheld. The Developer shall use all reasonable efforts to commence or cause commencement of construction of such Subsidized Housing within twelve (12) months of the issuance of a Certificate of Use and Occupancy of the Project. The Authority may allow the Developer to make a cash payment being due and payable to the Authority to be held in escrow for the production of low or moderate income housing in Boston's neighborhoods to such cash payment to be made upon closing of the sale of the ninetieth (90th) unit but not to exceed twelve (12) months from the date of the issuance of a Certificate of Use and Occupancy.

4. The Developer shall submit a Boston Residents Construction Employment Plan to the Director of the Authority, which Plan shall set forth in detail the Developer's plans to ensure that its contractor, and those engaged by said contractor for construction of the Project, shall meet the following Standards on a craft by craft basis: (a) at least 50 percent of the total employee worker hours in each trade shall be by bona fide Boston residents; (b) at least 25 percent of the total employee worker hours in each trade shall be by minorities; and (c) at least 10 percent of the total employee worker hours in each trade shall be by women. The Developer shall include the plan provisions for monitoring, compliance and sanctions. The Developer shall submit the plan substantially in the form attached hereto as Exhibit C, within thirty days of the execution of this Agreement or prior to the issuance of a building permit, whichever occurs sooner. Employee worker hours shall include hours spent in on-the-job training and apprenticeship positions.

5. The Authority agrees to look solely to the interests from time to time in the Project that are subject to this Agreement, whether owned by the Developer or its successors or assigns, as the case may be, for any claim against the Developer or its successors or assigns arising under this Agreement in connection with the Project.

Neither the Developer nor any trustee, beneficiary, partner, stockholder, manager, officer, director, agent or employee of the Developer or its successors and assigns shall be personally or individually liable under this Agreement, nor shall it or they be liable beyond the extent of its or their interest in the Project.

6. If the parties agree to amend this Agreement, such amendment shall be in writing and executed by parties hereto. This Agreement shall be governed by the laws of The Commonwealth of Massachusetts, and sets forth the entire agreement between the parties with respect to the subject matter contained herein. This Agreement is binding and enforceable under contract law upon, and inures to the benefits of, the parties, their successors, assigns, and legal representatives.
7. The Developer shall keep itself fully informed of all votes of the Authority, City ordinances, executive orders, and regulations, and state and federal law which in any manner affect the provisions of this Agreement. Developer shall at all times observe and comply with said votes, ordinances, executive orders, regulations or laws and shall protect and indemnify the City and the Authority, its officers, agents and employees against any claim or liability arising from or based upon the violations of such votes, ordinances, executive orders, regulations or laws, caused by any act or omission of the Developer, its agents or employees.
8. If a building permit is not granted for any part of the Project, or if construction of any part of the Project is abandoned after a building permit is obtained prior to the commencement of "substantial construction", as hereinafter defined, or if a building permit lapses and is not renewed, then the Developer shall have no responsibility for the housing grant with respect to the Project or part thereof. As used herein, the term "substantial construction" shall mean the excavation of the Project site or the construction of any above or below grade structures, but shall not include the demolition of any structures or portions thereof now existing on the Project site.
9. All notices under this Agreement must be in writing and delivered in hand or mailed, postage prepaid, by registered or certified mail, return receipt requested, to the parties at the following addresses:

Authority:

Boston Redevelopment Authority
Director's Office
City Hall Square
Boston, MA 02201

10. If there shall hereafter be imposed by the City of Boston any contribution, assessment, levy, excise or tax upon the Project, the proceeds of which are dedicated, in whole or in part to the establishment of a fund for purposes substantially similar to the purposes recited in this Agreement, amounts payable hereunder by the Developer shall be credited against such contribution, assessment, levy, excise or tax; provided however, that if such crediting shall not be legally permissible to satisfy payment of such contribution, assessment, levy, tax or excise, the obligations of the Developer hereunder, to the extent of the amount of such contribution, assessment, levy, tax or excise shall cease and be of no further force and effect.

With copies to:

Boston Redevelopment Authority
Chief General Counsel
City Hall Square
Boston, MA 02201

Developer:

TREMONT ONE LIMITED PARTNERSHIP
c/o Hall Davison & Company
20 University Road
Cambridge, MA 02138

With copies to:

John Bok, Esquire
Thomas H. Trimarco, Esquire
Csaplar & Bok
One Winthrop Square
Boston, MA 02110

Approved as to Form:

BOSTON REDEVELOPMENT AUTHORITY

Chief General Counsel

By:

Stephen Coyle, Director
Hereunto duly authorized

TREMONT ONE LIMITED
PARTNERSHIP

By:

E. Jack Hall, General Partner

By:

Richard A. Goren, General
Partner

By:

Thomas Piatt, General Partner

BOSTON
REDEVELOPMENT
AUTHORITY

Raymond L. Flynn
Mayor

EXHIBIT A

Stephen Coyle
Director

One City Hall Square
Boston, MA 02201
(617) 722-4300

Mr. E. Jackson Hall
Tremont One Associates
c/o Hall, Davison and Company
20 University Road
Cambridge, MA 02138

Dear Mr. Hall:

My staff has reviewed the Schematic Design submission for the proposed Parkside West Project, and we are pleased to approve the submission revised as of May 1986 with the following exception:

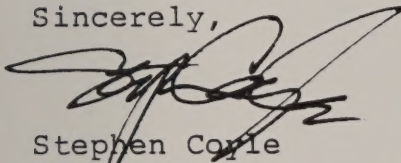
Proposed streetscape improvements along Tremont Street (indicated on Drawing "4") should include street trees planted along the entire length of the Tremont Street frontage.

During the Design Development phase, my staff will be particularly concerned with the continuing review of the following:

- . construction materials
- . balcony treatment and articulation
- . fenestration
- . streetscape improvement plan for Tremont Street and Mason Place/Street

We look forward to the timely submission of Design Development drawings and we trust the high quality of design work that has characterized this project to date will be maintained.

Sincerely,



Stephen Coyle
Director

PARKSIDE WEST SCHEMATIC DRAWINGS

<u>Drawing</u>	<u>Title</u>	<u>Date</u>
1	View from Boston Common	May 1986
2	Neighborhood Plan	May 1986
3	Neighborhood Section-Elevations	May 1986
4	Site Plan	May 1986
5	Plans	May 1986
6	Plans	May 1986
7	Plans	May 1986
8	Plans	May 1986
9	Plans	May 1986
10	Building Section	May 1986
11	Building Section	May 1986
12	Elevations	May 1986
13	Elevations	May 1986

CITY OF BOSTON

Raymond W. Flynn, Mayor

BOSTON DEVELOPMENT AUTHORITY

Robert L. Farwell, Chairman

Joseph J. Walsh, Vice-Chairman

James A. Flaherty, Treasurer

Clarence J. Jones, Vice-Treasurer

Michael R. Dutton, Member

Ruth S. Scharf, Member

Stephen J. Ryan, Member

1986, Revised 1986

Introduction

Development Review Procedures

Development Review Authority

Development Review Authority

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Appendix

Appendix A. Development Review Authority

Appendix B. Development Review Authority

Appendix C. Development Review Authority

DEVELOPMENT REVIEW PROCEDURES

CITY OF BOSTON

Raymond L. Flynn, Mayor

BOSTON REDEVELOPMENT AUTHORITY

Robert L. Farrell, Chairman

Joseph J. Walsh, Vice-Chairman

James K. Flaherty, Treasurer

Clarence J. Jones, Vice-Treasurer

Michael F. Donlan, Member

Kane Simonian, Secretary

Stephen Coyle, Director

1985, Revised 1986

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INTRODUCTION

As the city's planning and development agency, the Boston Redevelopment Authority (BRA) functions as a coordinator for development projects and has direct responsibility for reviewing development proposals. The BRA's review authority covers a wide range of projects. Projects may require zoning review initiated by a request for a building or occupancy permit from the Inspectional Services Department (ISD), review of financing mechanisms such as Chapter 121A, Commercial Area Revitalization Districts (CARDs), and Urban Development Action Grants (UDAGs), and review of proposals for publicly owned land.

The BRA reviews proposals for their overall viability and expected benefits to the city. Review criteria may vary depending on location, type, and size of the project. Design criteria include specifications for building height, massing, materials, and other guidelines to preserve Boston's history and character. Environmental concerns which are assessed include a project's impacts on sunlight, daylight, wind, groundwater, and air and water quality, both during construction and upon completion. Effects on surrounding neighborhoods, displacement, and community participation are also considered in the review process. Transportation review is concerned with the impacts of additional traffic, parking and loading, and examines proposed changes to rights-of-way or physical changes, encroachments on public space, curb cuts, and requirements of the Boston Air Pollution Control Commission, if applicable. Review criteria are included in the Zoning Code and planning documents.

This booklet outlines the BRA's review process, describes the sources which initiate the BRA's various review functions, outlines the stages of its review, and provides a comprehensive list of submission requirements and development review fees. Projects vary in size and complexity; therefore not all requirements are appropriate to all projects. For example, requests for zoning actions to construct a three-unit dwelling require a review quite different than that for a multi-story commercial project. The extent of the review is defined at an initial meeting between the developer and BRA staff.

Before construction on any project commences, a building permit must be obtained from ISD which is responsible for enforcing the Zoning Code, the Massachusetts State Building Code, and other laws and ordinances relating to building construction and occupancy.

The Massachusetts Environmental Policy Act (MEPA) requires a state review of certain projects to evaluate their environmental impacts. Because MEPA applies to a number of projects which undergo BRA reviews, MEPA's authority and procedures are outlined in Appendix 4.

BRA DEVELOPMENT REVIEW PROCEDURES

To evaluate the quality and appropriateness of a proposal based on objectives stated in plans, guidelines, and regulations governing development in Boston, the Boston Redevelopment Authority conducts a four-stage review process. This review is conducted by BRA staff from its design, development, planning, transportation, environmental, zoning, and engineering departments. The staff is assisted on a project by project basis by citizen advisory groups, the Boston Civic Design Commission, professional associations, and other constituencies. The time-frame for development review and the sequence of phasing may vary depending on the complexity of the project.

Concurrent with the design review of a project and prior to project approval, developers may be required to formulate (1) an access plan which outlines how adverse traffic impacts will be mitigated; (2) an affirmative housing plan; and (3) an employment plan. The submission materials and circumstances under which such plans are required are outlined in the following section entitled "Submission Requirements".

Step One: DEVELOPMENT CONCEPT

Projects are either privately or publicly initiated and the first step in development review varies accordingly. For a privately initiated project, the developer contacts the BRA with a letter of interest which briefly describes the project. The BRA meets with the developer to discuss the development concept, government regulations and procedures, and submission requirements appropriate to the project from the comprehensive list included in this document.

Publicly initiated projects include the disposition or leasing of city- or BRA-owned property which, because of size and location, require development review by the BRA. At the request of the city for city-owned property or at its own behest for BRA-owned property, the BRA may prepare a developer's kit for a specific site, outlining the development concept and guidelines. A request for proposals to develop the site is usually publicly advertised. The applicants are interviewed and the proposals are reviewed by the BRA. For projects proposed in a neighborhood setting, community representatives are notified. Based on the evaluation, the BRA grants tentative designation to a developer for BRA-owned property, or for city-owned property recommends a developer to the Real Property Board or Public Facilities Commission. From this point on, publicly and privately initiated projects follow similar review procedures. In some cases for BRA-owned property, tentative designations will not be made until after schematic review.

Step Two: SCHEMATIC REVIEW

This review is intended to secure agreement on and approval of the basic development concept prior to extensive design development. At this stage, the developer submits schematic project materials requested by the BRA. BRA staff reviews the proposal and recommends revisions. The schematic design is subject to environmental review to determine

microclimate and other impacts, and, if necessary, the project is changed to mitigate adverse impacts. During the schematic stage, various environmental impacts will be assessed, especially traffic, wind, sunlight and daylight. For large-scale projects, a draft environmental impact assessment report may be required. Simultaneously, the Boston Civic Design Commission (BCDC) reviews schematic designs to make recommendations to the Mayor and the BRA as to the Commission's approval, need for modification or further review, or disapproval of the plans. If two-thirds of the Commission votes to disapprove of the schematic design, a redesign is required. Acceptance by BRA staff and BCDC of the schematic design initiates the next stage of review.

Step Three: DESIGN DEVELOPMENT

The third phase of review is intended to secure agreement on and approval of the final design prior to extensive and detailed work on the working drawings. At this stage, financing mechanisms are refined. Applications for government subsidy programs are prepared for publicly supported projects. ISD staff shall join in the review process at this stage.

The developer submits design development materials as requested by the BRA and ISD. The materials are reviewed by BRA and ISD staff and, if necessary, modifications are requested. A final environmental review is conducted and a final environmental impact assessment report may be required.

At this stage, the BRA Board acts on development proposals to recommend appropriate zoning actions to the Zoning Commission and Board of Appeal, and to designate or recommend developers for public property. The public is invited to comment on projects. Based on BRA and ISD staff analyses and public comments, the Board recommends appropriate actions to other government entities and/or grants final designation of developers for BRA property. The timing of BRA Board actions with respect to the final designation of developers may vary. If final designation precedes any aspect of review, the developer is nonetheless bound to complete all requirements prior to the BRA's approval of contract documents.

The Zoning Commission and Board of Appeal consider the BRA's recommendations in their decisions. The Board of Appeal may condition its approval of a requested zoning action on final design review by the BRA. (Zoning Procedures, a booklet which complements this one, outlines the stages of zoning review.)

Step Four: CONTRACT DOCUMENTS

Prior to the issuance of a building permit by the Inspectional Services Department, the BRA and ISD review final working drawings and the selection of all building materials visible to the public. This review is intended to secure final agreement on and approval of the contract documents and the complete proposal.

During preparation of the contract documents, it is the developer's responsibility to notify the Authority and secure its approval of all changes from the approved design development drawings that are contemplated for site improvements, exterior facades, roofscape and interior public spaces. Progress drawings representing 50% completion of the contract documents may be required for review by the Authority.

Once contract documents have been approved and construction has begun, the only items subject to additional review will be requests for change orders in the construction. The developer must request permission to make changes from approved drawings, which may not be undertaken until such approval has been obtained from the BRA and ISD. Site visits may be conducted to ensure construction of the project is in accordance with the contract documents. After review of the project by BRA staff, a certificate of completion will be approved by the Board, certifying that the project has been completed according to the terms of the Authority's tentative and final designations. A Certificate of Occupancy must be obtained from ISD prior to occupancy of the building.

Active Variance and Conditional Use Permits

To obtain a variance an applicant must demonstrate that special circumstances exist which make a property different from others in the district. The Zoning Code contains which uses are conditional, as opposed to those which are specifically allowed or forbidden in a district. The applicant must obtain a conditional use permit by demonstrating that the proposed use is suitable for its location and will not have a detrimental effect on the surrounding area.

Special Zoning Designations

The Zoning Code defines several categories of special purpose areas or districts which include Planned Development Areas (PDAs) and Urban Renewal Areas (URAs) and Interim Planning Overlay Districts (IPODs). In these districts, the regulations specified for the base district apply, subject to the rules and in conflict with the special regulations for a particular facility, district which then requires a special zoning designation. Special zoning designations require a zoning amendment in addition to other approvals and are required for PDAs and URAs.

4. Planned Development Areas

PDA designation may be obtained for a project on a site of at least one acre. To request a PDA designation, the BRA must receive a developer's site plan, the Zoning Commission must adopt a rezoning, and the Board of Alders must grant exceptions to the Zoning Code.

5. Urban Renewal Subdistricts

An urban renewal subdistrict designation is only allowed within an already approved urban renewal project area. It is possible only after the BRA is able to the proposed zoning rezoning only in with the area's urban renewal plan and with the specific requirements for development of the particular subdistrict.

BRA REVIEW AUTHORITY

A project may require BRA review for three reasons: a request for a building or occupancy permit that requires zoning relief, the use of financing mechanisms, or the leasing or disposition of public property. One or more of these reasons may be applicable to an individual project and will initiate review by the Authority.

1. ZONING REVIEW

Zoning review is initiated by a request for a building or occupancy permit. If the application complies with the Building and Zoning Codes and with other city requirements, a permit is issued by ISD. If a project plan does not comply with the Zoning Code, permission to deviate from the Code may be sought by an exception, variance, conditional use permit from the Board of Appeal after a formal letter of refusal is obtained from ISD. Following BRA staff review and Board recommendation, the Board of Appeal holds a public hearing and the zoning variance or conditional use permit may be approved.

Zoning Variances and Conditional Use Permits

To obtain a variance an applicant must demonstrate that special circumstances exist which make a property different from others in the district. The Zoning Code specifies which uses are conditional, as opposed to those which are specifically allowed or forbidden in a district. The applicant obtains a conditional use permit by demonstrating that the proposed use is suitable for its location and will not have a detrimental effect on the surrounding areas.

Special Zoning Designations

The Zoning Code defines several categories of special purpose overlay districts which include Planned Development Areas (PDAs) and Urban Renewal Areas (URAs) and Interim Planning Overlay Districts (IPODs). In these districts, the regulations specified for the base district apply, except when they are in conflict with the special regulations for a particular overlay district which then requires a special zoning designation. Special zoning designations require a zoning amendment in addition to other procedures and can be sought for PDAs and URAs.

o Planned Development Areas

PDA designation may be obtained for a project on a site of at least one acre. To effectuate a PDA designation, the BRA must approve a development plan, the Zoning Commission must adopt a map amendment, and the Board of Appeal must grant exceptions to the Zoning Code.

o Urban Renewal Subdistricts

An urban renewal subdistrict designation is only allowed within an already approved urban renewal project area. It is available only after the BRA is assured the proposal's zoning map amendment conforms with the area's urban renewal plan and with the specific requirements for development of the particular subdistrict.

o Interim Planning Overlay Districts

An Interim Planning Overlay District is a zoning mechanism used to control development while changes to the Zoning Code are being reviewed and debated. IPODs will prohibit the construction of new buildings inconsistent with the proposed Zoning Code changes.

The interim overlay zoning stays in place for only a limited time. If, during the interim period, the original zoning is changed, then the new zoning will control development at the end of the interim period. If no change occurs, the zoning reverts to the previously existing zoning.

Development Impact Projects

A request for a variance, conditional use permit, exception, and zoning map or text amendment triggers the need for Development Impact Project approval if the project is 100,000 square feet or more of commercial space. Developers of such projects are required to make a development impact payment to the Neighborhood Housing Trust or to contribute to the creation of low and moderate-income housing in the city.

Development Impact Project (DIP) Plans must be submitted to the BRA for staff review, and subsequently presented to the BRA Board at a public hearing. If the Board approves the plans, the developer enters into a Development Impact Project Exaction Agreement with the BRA. Under the requirements of the city's Zoning Code, the Board of Appeal and the Zoning Commission can not approve a project until the Authority certifies that a DIP Agreement has been executed.

2. REVIEW OF FINANCING MECHANISMS

The BRA has review authority for three types of financing mechanisms to be used to allow developments which provide public benefits to the city. These financing mechanisms include Chapter 121A, Commercial Area Revitalization Districts (CARDs), and Urban Development Action Grants (UDAGs).

Chapter 121A

Under M.G.L., Chapter 121A and Chapter 652 of the Acts of 1960, the BRA, with the approval of the Mayor, has the power to approve applications for the formation of non-profit, limited dividend or cooperative entities for the purpose of redevelopment in a blighted, open, decadent or substandard area. Chapter 121A essentially offers a tax incentive to build in a blighted area.

Chapter 121A provides for 15 years exemption from taxation on real and personal property. The corporation instead pays a Section 10 excise tax of 5 percent of gross income and \$10 per \$1000 of fair cash valuation to the Commonwealth of Massachusetts. Section 6A payments agreed upon by the corporation and the city are paid directly to the city. Following a BRA staff review, public hearing, and BRA Board approval, the application goes to the Mayor for approval.

Commercial Area Revitalization District

The BRA is responsible for administering the state-assisted grant program, Commercial Area Revitalization District (CARD). Through the CARD program, economic development incentives are made available to commercial and industrial enterprises for development projects and the leasing of new facilities.

To be eligible, a development project or leasing program must be located in a CARD. A CARD may be located in either neighborhoods or the downtown core. The incentives for commercial enterprises to locate in a CARD include below market interest rate Industrial Revenue Bonds, mortgage insurance on a portion of the total project financing, and a net income deduction and tax credit to be applied to state corporate excise taxes which are owed by a commercial enterprise certified as an eligible business facility by the State Job Incentive Bureau.

As the city planning agency, the BRA conducts a financial analysis to determine if the project requires an Industrial Revenue Bond to be economically feasible and if it fits into the CARD plan. Following staff review and approval, a letter of approval is sent to the Boston Industrial Development Finance Agency which issues and approves the Industrial Revenue Bond.

Urban Development Action Grants

An Urban Development Action Grants (UDAG) is a financing mechanism which assist developments requiring public assistance by supplementing the private investment. UDAGs are primarily used for leveraging private investment and job creation. To be eligible for a UDAG, the project must have definitive financial commitment by a private investor and must include housing and community development or economic activity. City of Boston policy stipulates that UDAG funds are made as loans rather than grants. The loan repayments are used for neighborhood economic development projects throughout the city.

The BRA plays a strong role in UDAGs in design and environmental review and the preparation of the UDAG proposal. The City Council gives final approval, prior to the Department of Housing and Urban Development submission.

3. REVIEW FOR THE LEASING AND DISPOSITION OF PUBLIC PROPERTY

The selling or leasing of public property may initiate development review by the BRA. For certain BRA and city-owned parcels, the BRA prepares developer kits which outline design and development guidelines. To formulate guidelines for some parcels, the BRA seeks the assistance of community groups and the Boston Society of Architects. The BRA then makes a request for proposals and reviews the submissions received. A tentative designation is recommended for the most appropriate proposal. The proposal is then subject to the extensive review process described on pages 2-4, similar to that of privately-initiated projects. At its completion, the developer is granted final designation.

SUBMISSION REQUIREMENTS

Following is a comprehensive list of BRA submission requirements. Developers of large projects, typically those greater than 100,000 square feet in size, would be required to provide much of this information. Smaller proposals would provide only the information appropriate to their context and complexity, as defined by the BRA. Financing mechanisms, such as Chapter 121A, CARD, and UDAG programs, have additional requirements which are defined in other booklets. ISD requirements may be obtained from that department.

In addition to full-size scale drawings, 5 copies of a bound booklet containing all submission materials reduced to size 8½ x 11, except where otherwise specified, are required. For projects to be reviewed by the Boston Civic Design Commission, 10 booklets containing the applicant information and the design submission materials are required.

I. Applicant Information

A. Development Team

1. Names

- a. Developer (including description of development or Chapter 121A entity)
- b. Attorney
- c. Project consultants

2. Business address and telephone number for each

3. Designated contact for each

4. Description of current or formerly-owned developments in Boston

B. Legal Information

1. Legal judgements or actions pending concerning the proposed project

2. History of tax arrears on property owned in Boston by development team

3. Property Title Report including current ownership and purchase options of all parcels in the development site

II. Financial Information

(See Appendix 1 for sample forms.)

A. Full disclosure of names and addresses of all financially involved participants and bank references

B. Nature of agreements for securing parcels not owned by prospective developer

- C. Development Pro Forma
- D. Operating Pro Forma
- E. Sales Pro Forma
- F. Additional financial information pertinent to Chapter 121A, CARD, and UDAG applications

III. Project Area

- A. Description of metes and bounds of project area
- B. For Chapter 121A, CARD, UDAG, statements of fact establishing the need and rationale for such a designation (as required in their procedures)

IV. Relocation Information

- A. Statement by applicant concerning applicability to project of any Federal or State Relocation Regulations, and Citation of Regulations believed applicable
- B. If Chapter 121A, 121B or Chapter 79A is applicable then a statement is required that relocation information and relocation plan will be submitted under separate cover in accordance with Chapter 121A, 121B or Chapter 79A requirements.
- C. For projects not covered by federal or state programs containing relocation regulations, the following information:
 - 1. Number of units in building(s) to be demolished or vacated
 - 2. Number of occupied units, by type, per building
 - 3. Tenure of occupants (owner/tenant/sub-tenant)
 - 4. Name and address of each occupant (owner or prime tenant)
 - 5. Information on size and monthly costs:
 - a. Residential unit - number of rooms, bedrooms, and monthly rent, indicating included utilities
 - b. Non-residential - gross square feet of area, number of floors, including ground floors and monthly rent, indicating included utilities
 - 6. Length of occupancy of current occupant in unit (and building if greater)
 - 7. Estimate of the total number of small businesses
 - 8. Number, if any, of minority households or businesses displaced

9. Net increase or decrease in number of units:
 - a. Total number of housing units proposed
 - b. Reduction in rent controlled units

V. Project Design

A. Phase I Submission: Project Schematics

1. Written description of program elements and space allocation for each element
2. Neighborhood plan and sections at an appropriate scale (1" = 50' or larger) showing relationships of the proposed project to the neighborhood's:
 - a. massing
 - b. building height
 - c. scaling elements
 - d. open space
 - e. major topographic features
 - f. pedestrian and vehicular circulation
 - g. land use
3. Black and white 8"x10" photographs of the site and neighborhood
4. Sketches and diagrams to clarify design issues and massing options
5. Eye-level perspective (reproducible line drawings) showing the proposal in the context of the surrounding area
6. Aerial views of the project
7. Site sections at 1" = 20' or larger showing relationships to adjacent buildings and spaces
8. Site plan at an appropriate scale (1" = 20' or larger) showing:
 - a. General relationships of proposed and existing adjacent buildings and open space
 - b. Open spaces defined by buildings on adjacent parcels and across streets

- c. General location of pedestrian ways, driveways, parking, service areas, streets, and major landscape features
 - d. Pedestrian, handicapped, vehicular and service access and flow through the parcel and to adjacent areas
 - e. Survey information, such as existing elevations, benchmarks, and utilities
 - f. Phasing possibilities
 - g. Construction limits
9. Massing model at 1" = 100' for use in the Authority's downtown base model.
 10. Drawings at an appropriate scale (e.g., 1" = 8') describing architectural massing, facade design and proposed materials including:
 - a. Building and site improvement plans
 - b. Elevations in the context of the surrounding area
 - c. Sections showing organization of functions and spaces
 11. Preliminary building plans showing ground floor and typical upper floor(s)
 12. Proposed schedule for submission of design development materials
- B. Phase II Submission: Design Development
1. Revised written description of project
 2. Revised site sections
 3. Revised site plan showing:
 - a. Relationship of the proposed building and open space to existing adjacent buildings, open spaces, streets, and buildings and open spaces across streets
 - b. Proposed site improvements and amenities including paving, landscaping, lighting and street furniture
 - c. Building and site dimensions, including setbacks and other dimensions subject to zoning requirements
 - d. Any site improvements or areas proposed to be developed by some other party (including identification of responsible party)

- e. Proposed site grading, including typical existing and proposed grades at parcel lines
- 4. Dimensioned drawings at an appropriate scale (e.g., 1" = 8') developed from approved schematic design drawings which reflect the impact of proposed structural and mechanical systems on the appearance of exterior facades, interior public spaces, and roofscape including:
 - a. Building plans
 - b. Preliminary structural drawings
 - c. Preliminary mechanical drawings
 - d. Sections
 - e. Elevations showing the project in the context of the surrounding area as required by the Authority to illustrate relationships or character, scale and materials
- 5. Large-scale (e.g., 3/4" = 1'-0") typical exterior wall sections, elevations and details sufficient to describe specific architectural components and methods of their assembly
- 6. Outline specifications of all materials for site improvements, exterior facades, roofscape, and interior public spaces
- 7. A study model at an appropriate scale (e.g., 1" = 16', or as determined after review of schematic design) showing refinements of facade design
- 8. Eye-level perspective drawings showing the project in the context of the surrounding area
- 9. Samples of all proposed exterior materials
- 10. Complete photo documentation (35 mm color slides) of above components including major changes from initial submission to project approval

C. Phase III Submission: Contract Documents

- 1. Final written description of project
- 2. A site plan showing all site development and landscape details for lighting, paving, planting, street furniture, utilities, grading, drainage, access, service, and parking
- 3. Complete architectural and engineering drawings and specifications
- 4. Full-size assemblies (at the project site) of exterior materials and details of construction

5. Eye-level perspective drawings or presentation model that accurately represents the project, and a rendered site plan showing all adjacent existing and proposed structures, streets and site improvements
6. Site and building plan at 1" = 100' for Authority's use in updating its 1" = 100' photogrammetric map sheets

D. Phase IV Submission: Construction Inspection

1. All contract addenda, proposed change orders, and other modifications and revisions of approved contract documents which affect site improvements, exterior facades, roofscape, and interior public spaces shall be submitted to the Authority prior to taking effect.
2. Shop drawings of architectural components which differ from or were not fully described in contract documents

VI. BRA Environmental Impact Assessment

Whether or not a project comes within the purview of the Massachusetts Environmental Policy Act review requirements, the BRA may request all or several of the environmental analyses listed below. The extent of analyses required depends on the size, location, and complexity of the project.

A. Transportation Impacts/Access Plan

1. Parking
 - a. Number of spaces provided indicating public and private allocation
 - b. Reduction in parking from previous use of site
 - c. Proposal's impact on demand for parking
 - d. Parking plan, including layout, access, and size of spaces
 - e. Evidence of compliance with City of Boston parking freeze requirements
2. Loading
 - a. Number of docks
 - b. Location and dimension of docks
3. Access
 - a. Size and maneuvering space on-site or in public right-of-way

- b. Access, curb cuts, and/or sidewalk changes required
- 4. Vehicular Traffic
 - a. Project vehicular traffic demand and generation (daily and peak-hours) and distribution
 - b. Circulation and access impacts on the local and regional street system and local intersections (traffic impact area), including capacity and level-of-service analyses
 - c. Modal split and vehicle occupancy analysis
- 5. Public Transportation
 - a. Location and availability of public transportation facilities
 - b. Usage and capacity of existing system
 - c. Peak-hour demand and capacity analysis
 - d. Measures to encourage use of public transportation
- 6. Pedestrian Circulation
 - a. Demand and capacity analysis on project area sidewalks
 - b. Connections to public transportation station stops
 - c. Effect on pedestrian flows of project parking and servicing entrances and exits
- 7. Access Plan
 - a. Measures to manage parking demand and optimize use of available parking spaces, including:
 - o Proposed rate structures(s)
 - o Ride-sharing incentives and information dissemination
 - o Set-asides for high-occupancy-vehicles: number and location
 - o Set-asides for after morning commuter peak (usually 9:30 or 10:00 a.m.)
 - b. Measures to encourage public transportation use, including:
 - o Mass transit information dissemination
 - o MBTA pass sales and subsidies
 - o Direct station links or pedestrian connections

- c. Measures to reduce peaking, including:
 - o Encouragement of flexible work hours
 - o Restrictions on service and good deliveries
- d. Measures to mitigate construction impacts, including:
 - o Time and routes of truck movements
 - o Storage of materials and equipment
 - o Worker parking and commuting plan
- e. Monitoring and reporting measures

B. Wind

Information on pedestrian level winds is required during the schematic design stage for build and no-build conditions. Wind tunnel testing will be required for:

- a. Any building higher than 150 feet
- b. Any building 100 feet high and two times higher than the adjacent buildings
- c. Other buildings which fall below these thresholds, but because of their context and particular circumstances would require wind tunnel testing

Particular attention shall be given to public and other areas of pedestrian use (sidewalks, plazas, building entrances, etc.) adjacent to and in the vicinity of the project site.

1. Wind tunnel testing is to be conducted in two stages - Stage I Qualitative Study and Stage II Hot Wire Testing. For Stage I, an erosion study (or equivalent methodology) must be conducted to determine potential problem areas and to identify appropriate placement of sensors for hot wire testing.
2. Wind tunnel testing should be conducted according to the following criteria:
 - a. Results of wind tunnel testing should be consistently presented in miles per hour (mph).
 - b. Velocities should be measured at a scale equivalent to 6 feet above ground level.
 - c. The instrument should have a frequency response that is flat to 100 hertz and filters out any higher frequency (hot wire testing).
 - d. The expected one percent occurrence of hourly average, effective gust, and peak gust velocities should be reported (hot wire testing).

- e. Erosion study data shall be presented in tabular form and graphically through photographs showing changes between build and no-build conditions.
 - 1. Wind directions from the sixteen compass points shall be used noting the percent or probability of occurrence of each direction on a seasonal and annual basis.
 - 2. Wind velocities for each direction shall include the intervals: 0-15 mph and every 5 mph interval from 15 to 40 mph inclusive.
 - 3. For each ground station tested, data shall include, in addition to the annualized 1% occurrence of wind speeds, the 1% wind velocities for each of the four seasons of the year and the percentile contribution of the 1% wind velocity from each of the 16 wind directions.
- f. Hot wire data shall be presented both in tabular form and graphically on a map to indicate velocity changes between build and no-build conditions.
 - 1. The effective gust velocity can be computed by the formula: average hourly velocity plus $1.5 \times \text{root mean square (rms) variations about the average}$.
 - 2. Analysis should be presented as follows:
 - a. Present data for existing (no-build) and future build scenarios as follows:
 - Mean velocity (exceeded 1% of time)
 - Effective gust velocity (exceeded 1% of time)
 - b. Compare mean and effective gust wind speeds on both annual and seasonal basis, by wind direction.
 - c. Provide a written descriptive analysis of wind environment and impacts for each sensor point including such items as source of winds, direction, seasonal variations, etc., as applicable. Include analysis of suitability of location for various activities (e.g., walking, sitting, eating, etc.) as appropriate.
 - d. Provide maps of sensor locations with wind speed data, graphically indicating changes in wind speeds.

3. For areas where wind speeds are projected to exceed acceptable levels, measures to reduce wind speeds and mitigate potential adverse impact shall be identified.
- C. Shadow (Information should be provided during the schematic design stage.)
1. Shadow analysis plans should be submitted at a scale of 1' = 40' and 1" = 100'.
 2. Shadow impact analysis must include net new shadows as well as existing shadows.
 3. Initial shadow analyses must include shadow impacts for build and no-build conditions for the hours 9:00 a.m., 12:00 noon, and 3:00 p.m. conducted for four periods of the year at the vernal equinox, autumnal equinox, winter solstice, and summer solstice.
 4. Shadow analyses also are to be conducted at 10:00 a.m., 11:00 a.m., 12:00 noon, 1:00 p.m., and 2:00 p.m. on October 21 and November 21, and must show the incremental effects of the proposed massing on proposed or existing public spaces including major pedestrian areas.
 5. Additional shadow analyses may be required depending on the particular physical characteristics of the site including its solar orientation relative to public open spaces, pedestrian patterns and street patterns, and existing shadows in the area.
- D. Daylight (Information should be provided during the schematic design stage.)
1. Daylight analysis for build and no-build should be conducted by measuring the percentage of skydome that is obstructed by a building.
 - a. Specific technique and graphic methodologies required for determining percent of obstructed skydome will be provided by the BRA.
- E. Excavation and Landfill
1. Written description including amount and method of excavation, dredging and filling proposed, and the existence of blasting and pile driving
 2. Analysis of sub-soil conditions, potential for ground movement and settlement during excavation, and impact on adjacent buildings and utility lines

F. Groundwater

1. List of measures used to ensure the groundwater levels will not be lowered during or after construction, if applicable
2. Engineering analysis of the impact of development on groundwater, surrounding structures, wooden piles and foundations

G. Solid and Hazardous Wastes/Materials

1. A list of any known or potential contaminants on site together with evidence of the recording with the Registry of Deeds of the disposal of hazardous wastes on the site, pursuant to the M.G.L., Chapter 21C, if applicable
2. Possible hazardous wastes generated
3. Existence of buried gas tanks on site
4. Estimate of potential trash generation and plans for disposal

H. Noise

1. Where appropriate, noise analyses to determine compliance with City of Boston regulations and applicable state and federal guidelines
2. For residential projects, evaluation of ambient noise levels to determine conformance with the Design Noise Levels established by the U.S. Department of Housing and Urban Development.

I. Flood Hazard Zone/Wetlands

1. Where appropriate, determination of whether or not proposal falls within a Federal Flood Hazard Zone or requires a Wetlands Permit
2. If applicable, description of measures to minimize potential flood damage and to comply with city and federal flood hazard regulations and any Order of Conditions issued by the Boston Conservation Commission

J. Construction Impacts

1. Description of construction staging areas
2. Availability of construction worker parking
3. Potential dust generation and mitigation measures to control dust emissions
4. Permits from Air Pollution Control Commission for sand blasting, if appropriate

5. Potential noise impact and measures to minimize noise levels
6. Truck traffic and access routes
7. Pedestrian safety

K. Historical Landmarks

1. Description of the project site location in proximity to a National or Massachusetts Register site or district or Landmark designated by the Boston Landmarks Commission
2. Identification of Boston Landmarks Commission ratings for existing buildings.
3. Possible effects to the National or Massachusetts Register site or district or a Landmark designated by the Boston Landmarks Commission

L. Air Quality

1. Impact on local air quality from additional traffic generated by the project, including identification of any location projected to exceed national or Massachusetts air quality standards
2. Estimation of emissions from any parking garage constructed as part of the project
3. Description and location of building/garage air intake and exhaust systems and evaluation of impact on pedestrians
4. For residential projects, evaluation of the ambient air quality to determine conformance with the National Ambient Air Quality Standards established by the U.S. Environmental Protection Agency.

M. Utility Systems

1. Estimated water consumption and sewage generation from the project
2. Description of the capacity and adequacy of water and sewer systems and an evaluation of the impacts of the project on these systems
3. Identification of measures to conserve resources, including any provisions for recycling

N. Energy

1. Description of energy requirements of the project and evaluation of project impacts on resources and supply

2. Description of measures to conserve energy usage and consideration of feasibility of including solar energy provisions

O. Water Quality

1. Description of impacts of the project on the water quality of Boston Harbor or other water bodies that could be affected by the project, if applicable
2. Description of mitigation measures to reduce or eliminate impacts on water quality

P. Solar Glare

1. Analysis of solar glare impact and solar heat gain analysis, if applicable

VII. Affirmative Housing Plan

Applicants for city-owned land; city, state, or federal funds administered by a city agency; or zoning relief to construct housing may be required to submit an Affirmative Housing Plan and to adhere to fair housing requirements outlined in Appendix 2. The plan should include the following:

- A. Description of affirmative marketing techniques
- B. Description of owner/tenant selection process
- C. Proposed owner/tenant profile indicating number of units dedicated to community residents, minorities, female-headed households, and low-moderate income people

VIII. Employment Plan

Boston Jobs Policy (Appendix 3) requires that publicly-assisted and large-scale private commercial projects hire Boston residents, minorities, and women for construction jobs for 50, 25, and 10 percent respectively of the person-hours worked. In addition, developers may be requested to submit permanent employment plans intended to meet a goal that the profile of permanent employees in the building include Boston residents (50 percent), minorities (30 percent), and women (50 percent). Submission materials may include the following:

- A. Estimated number of construction jobs
- B. Estimated number of permanent jobs
- C. Plan for meeting Boston Resident Construction Jobs Standards
- D. Plan for meeting Boston Resident Permanent Jobs Standards
- E. Plan for meeting Minority Business Employment Goals of city contracts or state and federal regulations and policies

IX. Public Benefits

- A. Development Impact Project exaction, specifying amount and method of linkage contribution (housing payment or housing creation)
- B. Increase in tax revenues, specifying existing and estimated future annual property taxes
- C. Childcare plan
- D. Other public benefits

X. Regulatory Controls and Permits

- A. Existing zoning requirements, calculations, and any anticipated zoning requests
- B. Anticipated permits required from other local, state, and federal entities with a proposed application schedule
- C. For structures in National or Massachusetts Register Districts or sites individually listed on the National or Massachusetts Register of Historic Places, duplicates of parts I and II of the certification documents and applicable correspondence and permits
- D. For projects requiring compliance with the Massachusetts Environmental Policy Act (MEPA), copies of the Environmental Notification Form, Certificate of the Secretary of Environmental Affairs, and Environmental Impact Report, if required
- F. Other applicable environmental documentation

XI. Community Groups

- A. Names and addresses of project area owners, displacees, abutters, and also any community groups which, in the opinion of the applicant, may be substantially interested in or affected by the proposed project
- B. A list of meetings proposed and held with interested parties

FEES

The following is a list of fees for development projects. Most fees are not refundable except fees for reviewing developers' proposals for public parcels, which are partially refundable to unsuccessful applicants.

Bid Documents

o Site Preparation Contracts	\$ 100
o Property Management Contracts	\$ 100
o Operation of Parking Lots	\$ 100
o Rehabilitation Documents	\$ 100
o Demolition Contracts*	\$ 100

Chapter 121A Fees

o Application	\$ 5,000
o Amendments of application requiring a hearing and report	\$ 3,500
o Amendments of any kind not requiring a hearing	\$ 2,500

<u>CARD Project Review Fees</u>	\$ 2,500
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<u>Developer Kits</u>	\$ 0-100 (varies depending on size of site and proposed development)
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<u>Developer Proposal Fees</u>	\$ 0-7,500 (varies depending on site)
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Zoning Commission Fees

o Annual subscription to Zoning Code Amendments	\$ 10
o Annual subscription to Zoning Code Amended Pages	\$ 10
o Zoning Code Text or Map Amendment Application	\$ 225 (Advertising costs will also be paid by proponent and will vary according to length of ad)

Note: Fees for zoning and building code variances and appeals are paid directly to the Board of Appeal.

*Refundable

Appendix 1
PRO TYPICAL

APPENDICES

Appendix 1
PRO FORMAS

Recognizing that the purpose of this project is to provide a safe and secure environment for the community, the City of [City Name] has approved the following conditions for the project:

The City of [City Name] will provide the following assistance to the project:

Interim Provisions

- a. The City of [City Name] will provide the following assistance to the project:

The City of [City Name] will provide the following assistance to the project:

- b. The City of [City Name] will provide the following assistance to the project:

- c. The City of [City Name] will provide the following assistance to the project:

- d. The City of [City Name] will provide the following assistance to the project:

- e. The City of [City Name] will provide the following assistance to the project:

- f. The City of [City Name] will provide the following assistance to the project:

Appendix 2 FAIR HOUSING REQUIREMENTS

Recognizing that underrepresentation of minorities or female heads of households in a particular neighborhood may itself discourage interest among those groups from living in that neighborhood, the city will undertake affirmative marketing efforts to ensure that the city's minorities and female heads of households have access to housing throughout the city.

These efforts will apply to all projects of five or more units (rental and home ownership projects) which receive exceptions to zoning requirements from the Boston Zoning Commission and those that receive any form of city financial assistance, or state or federal assistance which is administered by the city. Financial assistance shall include the donation or sale or city-owned land to facilitate the project.

Interagency Procedures

- a. When an application for one or more of the following is received:
(i) city-owned land; (ii) city, state or federal funds administered by a city agency; or (iii) zoning exception for the development of a housing project, the appropriate city agency shall notify the Boston Fair Housing Commission within thirty (30) days of receipt of the application.

The BFHC shall review the compliance record, if any, of all applicants. If the record shows that an applicant has unresolved issues of non-compliance, the Commission shall attempt to resolve these issues in accordance with its mediation and hearing procedures. In those cases where a compliance agreement cannot be reached, the BFHC shall recommend to the Mayor and the appropriate agency that the application be rejected. Where the applicant has received city land, or other city benefits, and has not complied with fair housing requirements, the Commission shall recommend to the Mayor and to the administering agency that the applicant be denied an occupancy permit for the project.

- b. The appropriate city agency shall advise developers of affirmative marketing requirements through program designs, Requests for Proposals and other forms of communication. Additionally, affirmative marketing requirements shall be specified in all housing and housing development contracts awarded or administered by city agencies.
- c. The BFHC shall assist the appropriate agency in developing project specific affirmative marketing plans.
- d. Developers shall be required to sign a non-discrimination statement.
- e. The BFHC shall monitor implementation of each affirmative fair housing market plan.
- f. The BFHC shall submit to the Mayor an annual report summarizing affirmative marketing efforts and accomplishments.

Elements of Affirmative Marketing Plan

a. Outreach Housing Efforts

Each developer, including city agencies, will be required to:

- (i) advertise availability of housing in majority and minority newspapers;
- (ii) send outreach letters to housing counselling agencies which assist low-moderate income families and minorities;
- (iii) undertake such additional efforts as may be required, due to the specific nature, or location of the project.

b. Neighborhood Preferences

To stabilize neighborhoods and mitigate the effects of displacement/gentrification, up to 70% of available affordable housing units may be targeted by a developer for neighborhood residents. This policy will work to prevent the gentrification of minority neighborhoods since a substantial proportion of city-owned land which will be used to produce affordable housing is located in minority neighborhoods. However, developers may not exclude people from other neighborhoods from applying and competing for all units. Plans for tenant selection where neighborhood preference is a criterion shall be approved by the BFHC.

c. Measures for Compliance

A developer who has taken every step outlined in a city-approved affirmative marketing plan shall be able to proceed with completion of his/her project. Compliance shall be determined by the BFHC. A developer who has not adequately complied with a city-approved marketing plan, however, shall be required to conduct additional outreach and/or may be subject to pre-determine remedies.

Appendix 3

BOSTON JOBS POLICY

1. Boston Resident Jobs Policy

Chapter 30 of the Ordinances of 1983 established a Boston Resident Jobs Policy. The 1983 ordinances requires contractors performing work on construction projects funded in whole or in part by the city or to which the city administers to ensure 50% Boston resident, 25% minority and 10% female participation of the total construction workhours performed on the project. To ensure compliance with these requirements, the City of Boston Supplemental Minority Participation and Resident Preference Contract provisions are included in all contracts for construction projects covered by the Ordinance. This contract supplement delineates the contractor's compliance obligations and a description of the city's monitoring and enforcement of the policy.

2. Executive Order Extending Jobs Policy

The July 12, 1985 Executive Order extends the Resident Jobs Policy ordinance to cover privately financed construction projects in excess of 100,000 square feet (excluding housing developments). The Executive Order includes the same hiring requirements and requires each developer to submit a detailed employment plan with provisions for monitoring, compliance and sanctions. The submission of the Boston Residents Construction Employment Plan is a required submission prior to the issuance of a building permit for the project.

3. Permanent Jobs Policy

The city has initiated a permanent jobs policy which requires developers receiving city assistance (i.e., loans, land or building acquisitions, lease agreements or licenses) for projects which are expected to generate permanent job opportunities, to enter into an employment agreement with the city. These agreements typically include the provisions for 50% Boston resident, 30% minority, and 50% female hiring in all new jobs generated and for the advanced notification of job opportunities to the city and/or community based organizations. Additional commitments negotiated through these agreements include financial contributions for job training and affirmative action activities. The city has begun negotiations with the developers for the privately financed projects to discuss similar types of permanent job agreements.

Appendix 4

MASS. ENVIRONMENTAL POLICY ACT REVIEW AUTHORITY

The Massachusetts Environmental Policy Act (MEPA) requires the review and evaluation of projects to describe their environmental impact and establishes a process for determining when Environmental Impact Reports (EIRs) are required. MEPA applies to projects directly undertaken by a state agency (including leases and transfers of property undertaken by an agency) and to privately-initiated projects requiring an agency permit or receiving financial assistance from an agency. Because the BRA is a redevelopment authority created by the Legislature, it falls under the jurisdiction of MEPA. Where the BRA acts only as the planning department for the city, such as in zoning matters and the disposition of city-owned land, MEPA does not apply.

Regulations implementing MEPA were promulgated by the Executive Office of Environmental Affairs (EOEA), which is also responsible for determining whether a project requires an EIR. These regulations establish a process whereby, for non-exempt projects, an Environmental Notification Form (ENF) is required to be filed with EOEA for public and agency review as the preliminary step in determining the need for an EIR. For activities or actions undertaken by an agency, the preparation of the ENF (and of the EIR, if subsequently required) is the responsibility of the agency itself. For private projects seeking state or BRA financial assistance or a permit (e.g., Chapter 121A approval), the project proponent is responsible for preparing the required documents.

In addition to describing the environmental review process, the MEPA regulations also establish categories of projects which automatically require the preparation of an EIR (categorical inclusions) and which are automatically excluded from filing an ENF (categorical exclusions). Specific rules of application are included in the regulations.

With respect to timing, the public/agency review period for ENF's is 20 days following publication in EOEA's Environmental Monitor of a notice of submission and availability of an ENF. Notices are published twice monthly, on approximately the 7th and the 21st of the month. The Secretary of Environmental Affairs then has 10 days in which to issue a certificate stating whether or not an EIR is required.

If an EIR is required, the process involves the preparation and circulation for review of a Draft EIR (the public/agency review period is 30 days following EOEA notice of availability of the EIR, with seven additional days for the Secretary to issue a statement on the adequacy of the Draft), preparation of the Final EIR responding to comments on the Draft, and circulation of the Final (again, a 30-day review period followed by seven days for the Secretary to issue a statement regarding the adequacy of the Final and its compliance with MEPA). Normally, the EIR process from beginning of the preparation of the EIR to final approval takes five to six months and considerably longer for major and complicated projects. The minimum time would be at least four months.

7/15/86
6/27/86

DRAFT

Boston Residents
Construction Employment Plan
for
[Identify Project]

WHEREAS, the documentation referred to herein will be used to structure incentives for compliance by Developers of the Employment Standards.

WHEREAS, the Commission shall issue certificates of compliance to those Developers who have equalled or exceeded their compliance requirements.

WHEREAS, the holder of a certificate of compliance and merit shall be given favorable consideration in the award of municipal contracts and development rights. Whereas, an unsatisfactory performance will be weighted against those Developers.

NOW THEREFORE, the Parties hereto agree as follows:

Section I: DEFINITIONS

- 1.1 Commission: A City of Boston agency, ^{established} ~~designated~~ by the ordinance, ~~Mayor~~ responsible for determining compliance by Developers with the Boston Residents Construction Employment Standards and this Plan issuing appropriate sanctions.
- 1.2 Developer: [Insert name of Developer]
- 1.3 Employment Standards: The standards as set forth in the Mayor's Executive Order of July 12, 1985 entitled Executive Order extending the Boston Residents Jobs Policy, attached hereto as Exhibit A. Specifically, the Executive Order requires that the Developer's plan shall ensure that on a craft by craft basis for construction employment for the Project, the following standards are met:
- (1) at least fifty (50) percent of the total employee workhours in each trade shall be by bona-fide Boston residents;
 - (2) at least twenty-five (25) percent of the total employee workhours in each trade shall be by minorities; and
 - (3) at least ten (10) percent of the total employee workhours in each trade shall be by women.
- 1.4 Minority Person: Any person who is Black, Hispanic, Asian or Native American, as these terms are defined by the United States Census Bureau, or as these terms are defined by the Commission in duly promulgated regulations.

- 1.5 "OJCS": A division of the Mayors Office known as the Office of Jobs and Community Services.
- 1.6 On-Site Monitor: An individual employed by the Developer or its designee whose responsibility will be the daily implementation of the Plan set forth herein. Such responsibilities will include monitoring compliance by the Developer with this Plan, and coordinating employment efforts with the union representatives for the Project. The On-Site Monitor will keep computerized documentation of efforts to fill any deficiencies in the labor requirements in each trade.
- 1.7 Plan: This Agreement.
- 1.8 Project: The construction of certain buildings at [Identify Project].
- 1.9 Boston Resident: An individual with an actual principal residence in the City of Boston.

Section II: GENERAL REQUIREMENTS AND STANDARDS

- 2.1 Developer shall use best and good faith efforts to ensure that the Employment Standards are met by its contractors and subcontractors during construction of the Project.
- 2.2 The Developer shall incorporate in its construction contract with [insert name of General Contractor] and shall require [insert name of General Contractor] to incorporate in each subcontract provisions requiring that each contractor engaged in construction in connection with the Project comply with this Plan to ensure that its work force in each trade meets the Employment Standards.
- 2.3 The Developer shall furnish to OJCS the name, title, address and telephone number of the employee designated as the On-Site Monitor.
- 2.4 Documentation of the Developer's efforts to comply shall be maintained by the Developer and provided to OJCS, the Commission or other duly authorized agent of the City of Boston as directed by the Commission.

Section III: PROCEDURES

- 3.1 The Developer shall not have applied applied for a building or use permit with respect to the Project prior to execution of the Plan. The Commission shall certify to the Commissioner of Inspectional Services issuing a building or use permit with respect to the Project that the Plan has been executed prior to the issuance of such permit.

- 3.2 Prior to the start of construction, the Developer, [insert name of General Contractor] and each subcontractor then selected shall meet with appropriate representatives of the construction trade unions for the purpose of explaining to each contractor the Employment Standards and the provisions of this Plan.
- 3.3 [Insert name of General Contractor] shall complete and submit to the Commission a completed Projected Workforce Form in the form attached hereto as Exhibit A prior to the Commission certifying to Inspectional Services Department that the Plan has been executed.
- 3.4 Before assigning workers to work, the contractor or subcontractor will obtain from each worker the worker's name, mailing address, and a completed Residency Verification Form in the form attached hereto as Exhibit B.
- 3.5 One week following the commencement of construction of the Project and each week thereafter until such work is completed, [insert name of General Contractor] shall complete and submit to OJCS for the week just ended Weekly Utilization Forms in the form attached hereto as Exhibit C.
- 3.6 [Insert name of General Contractor] shall forward to the union representatives for the Project within two business days of receipt thereof the names and addresses of Boston Residents, Minority Persons, and females who inquire about construction and related employment on the Project in order to secure work permits for those workers. [Insert name of General Contractor] and each Subcontractor shall document all requests for referrals made by it to the union halls or business agents, date of contract, and action taken by unions.
- 3.7 Each request for construction workers made by any On-Site Monitor to a union hall or business agent shall contain a recitation in the Form attached hereto as Exhibit D of the Employment Standards and a request that referrals for construction positions meet such Employment Standards and be selected in the same proportion as such requirements; provided, however, that if at the time of any such labor request the requesting party's work force composition falls short of any one or more categories, such labor request shall seek referrals in such proportion among such categories as would be necessary to cure any deficiencies. In the event that the union hiring hall or business agent fails to comply with such request, the On-Site Monitor shall obtain an affidavit from the union hiring hall representative or business agent verifying that insufficient workers in the categories specified in such request are then shown on the unemployed list maintained by such union hiring hall or business agent. Copies of any affidavit so obtained shall be submitted to OJCS.

- 3.8 The OJCS may conduct unannounced visits to the site of the Project to verify the information in the Projected Workforce Form and the Weekly Utilization Reports.

Section IV: DETERMINATION OF COMPLIANCE

- 4.1 OJCS shall make compliance determinations and recommendations to the Commission when the Project has reached the following stages of completion: 25 percent, 50 percent, 75 percent, and 100 percent. "Completion" shall be measured by the percentage of the total worker-hours expected to be worked on the Project.
- 4.2 Repeated failure to submit timely Weekly Utilization Reports or other documentation or to notify in a timely manner the Commission of changes in the Employment Plan Form will be deemed a lack of good faith and noncompliance herewith by the [insert name of Developer].
- 4.3 Repeated failure to work cooperatively with OJCS to identify opportunities for hiring Boston residents, minorities, and women be deemed an apparent lack of good faith and noncompliance herewith by the [insert name of General Developer].
- 4.4 If at the time the Commission makes its compliance determination, the Contractor or any of its Subcontractors is not operating in compliance with the Employment Standards, the Commission shall conduct an investigation or cause such an investigation to be conducted by OJCS.
- 4.5 If the the Commission finds cause to believe that the Contractor or Subcontractor is not operating in compliance, the Commission shall issue a preliminary notice of non-compliance to the party that is in apparent non-compliance and notify the Developer, the Contractor and the Subcontractor, if applicable, in writing. The Commission may request an opportunity to meet with the Developer, the Contractor or the Subcontractor, if applicable, to discuss the Contractor's or Subcontractor's compliance. The Commission shall make such request to the Developer, Contractor or Subcontractor in writing within five (5) working days of sending notice. The meeting shall be scheduled by the Commission at a reasonable date, time and place, with notice to the Developer, Contractor and Subcontractor, if applicable.
- 4.6 If the Commission determines that the Contractor or Subcontractor has made good faith efforts to achieve these requirements, the Commission shall find the Contractor or Subcontractor, if applicable, to be in compliance. The Commission shall issue its finding in writing, setting forth a summary of the facts and reasons on which it is based. Copies of the finding and summary shall be sent to the Developer, the Contractor, and the Subcontractor, as applicable.

- 4.7 If the Commission finds a Contractor or Subcontractor to be in noncompliance with any of the requirements of this Plan, written notice will be sent to said Contractor or Subcontractor, and the Developer, as applicable, requiring the Developer, Contractor and Subcontractor, as applicable, to meet with the Commission to formulate corrective measures to remedy any deficiencies. Such a formulation shall include a timetable, acceptable to the Commission, indicating the date by which compliance shall be achieved. The Commission may include any other reasonable measures it deems advisable in the circumstances. The Developer, Contractor and Subcontractor, if applicable, shall comply in full with these measures.

Section V: SANCTIONS

- 5.1 If the Commission determines that the Developer, Contractor or Subcontractor, as applicable, has not adhered to the Employment Standards and is in non-compliance, the Commission shall with notice to the Developer, Contractor or Subcontractor, as applicable, recommend that a certain amount of funds as calculated below be deposited in a non-compliance escrow account until said Contractor or Subcontractor is in compliance with this Plan. The Commission shall implement such recommendation, if it determines such action is warranted.

- 5.2 The amount of funds to be escrowed shall be as follows:

If the Developer fails to use good faith efforts to comply with its obligations under this Plan or if the Developer's Contractor and/or Subcontractors fail to use good faith efforts to comply with this Plan, the Commission may, after the project has reached any of the stages of completion stated in Section 4.1. exact payments from the Developer in amount equal to not more than one-tenth (1/10) of one (1%) percent of the total construction costs per violation for each week the Developer fails or refuses and/or has failed or refused to comply; provided, however, that any such exaction shall be made only after the Commission has given to the Developer written notice of the apparent noncompliance and has given the Developer an opportunity to meet with the Commission to present any arguments and evidence regarding the apparent non-compliance.

- 5.3 No funds placed in escrow in accordance with the recommendation of the Commission shall be released by Commission to the Developer, until the Commission has determined that the Developer, Contractor, or Subcontractor, as applicable, are in compliance with the Employment Standards.
- 5.4 If, when the work under the contract is substantially complete, the Commission shall consider the funds placed in escrow pursuant to this Plan as liquidated damages, and such funds shall not be released to the Developer unless it has brought itself into compliance or otherwise satisfied the requirements of the Commission.

5.5 When the Project is completed, the Commission shall deliver to the Developer a certification that all requirements of this Plan have been complied with during construction. The Commission may request from the Developer such additional information as the Commission deems necessary to demonstrate such compliance.

Section VI. MISCELLANEOUS

6.1 The sections of this Plan are severable, and if any of these articles shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining sections.

6.2 Massachusetts Law

6.3 Notices

6.4 Section Titles

6.5 Successors and Assigns

6.6 Waivers

6.7 Amendments

In WITNESS WHEREOF, the undersigned have caused duplicate copies of this Plan to be executed on this day
of , 198 .

CITY OF BOSTON

By: Office of Jobs and Community
Service

DEVELOPER

By: _____

